

Federal Defenders
OF NEW YORK, INC.

Southern District
81 Main Street, Suite 300
White Plains, N.Y. 10601-4150
Tel: (914) 428-7124 Fax: (914) 948-5109

David E. Patton
*Executive Director
and Attorney-in-Chief*

*Southern District of New York
Jennifer L. Brown
Attorney-in-Charge*

November 30, 2022

The Honorable Nelson S. Román
United States District Court Judge
Southern District of New York
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/30/2022

Re: **United States v. David Zayas**
22 CR 178 (NSR)

Dear Honorable Román:

I am writing to ask that Your Honor modify the terms of Mr. Zayas's release to remove the requirement that Mr. Zayas be subjected to home detention that is enforced by electronic monitoring. As background, Mr. Zayas was arrested on March 11, 2022. He was released that same day pursuant to a \$100,000 bond signed by five co-signers and secured with \$20,000 in cash. Since his release, Mr. Zayas has been living with his family in Webster, Massachusetts. Mr. Zayas has also been subjected to home detention and electronic monitoring and, as detailed below, has been fully compliant with the terms of his release.

Last week, Senior U.S. Probation Officer Ben Miller reached out to me and AUSA Josiah Pertz to recommend that Mr. Zayas no longer be subjected to home detention enforced by electronic monitoring. Officer Miller noted that Mr. Zayas has been subjected to these terms for eight months and that Mr. Zayas has "secured or sustained positive aspects in his life to include housing, family, education, employment." Officer Miller noted that Mr. Zayas – who had a valid medical marijuana card prior to his arrest in this case – has "halt[ed] that use and has been sober." Officer Miller added that Mr. Zayas "is always available, compliant, and cooperative." He also noted that he had "met with [Mr. Zayas's] wife and children (minors) numerous times. . . . The wife is employed at a halfway house. She confirms that [Mr. Zayas] is a dedicated father." He also notes that Mr. Zayas "has recently completed CDL classes with the goal of earning income as a truck driver."

In advocating for the removal of these conditions, Officer Miller noted that Mr. Zayas "has no [prior] default warrants or VOPs" and that at the time of Mr. Zayas's release "the SD/NY Probation Office did not recommend EM". Officer Miller concluded by stating that considering Mr. Zayas's eight months of compliance, "this Office respectfully recommends that Probation's stance on condition continues to

MEMO ENDORSED

not involve EM. HD/EM is not serving any greater purpose to risk of flight/danger than the factors of family, income, ties to the community.”

In light of Officer Miller’s recommendations, I respectfully request that Mr. Zayas’s release conditions be modified to remove the obligation that Mr. Zayas be subjected to home detention and electronic monitoring. I have communicated with AUSA Josiah Pertz, and he has no objection to this request.

Thank you for your consideration of this request.

Sincerely,

/s/

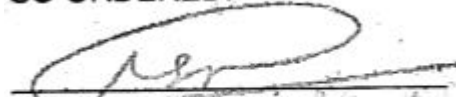
Benjamin Gold
Assistant Federal Defender

cc: AUSA Timothy Joisha Pertz
Supervisory U.S. Probation Officer Ben Miller

The Court DENIES Defendant's motion to modify the terms of his release without prejudice to renew. The Court has inadequate information, including regarding Defendant's criminal history, to make an appropriate determination. The Clerk of the Court is kindly directed to terminate the motion at ECF No. 24.

Dated: November 30, 2022
White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE